

**Emergency Financial Manager of the City of Ecorse
(Directive No. 018)**

**ORDER OF THE EMERGENCY FINANCIAL MANAGER OF THE
CITY OF ECORSE, COUNTY OF WAYNE, STATE OF MICHIGAN,
AUTHORIZING AND APPROVING COLD & HOT PATCHING
CONTRACT WITH ABC PAVING COMPANY OF MICHIGAN, INC.**

WHEREAS, under the Local Government Fiscal Responsibility Act, Act 72, Public Acts of Michigan, 1990, as amended ("Act 72") and a Contract (the "Contract") between the State of Michigan and Joyce A. Parker, dated October 30, 2009, Joyce A. Parker has been appointed as the Emergency Financial Manager (the "EFM") of the City of Ecorse, County of Wayne, Michigan (the "City") and charged with the power to take actions with respect to the City, including the power to exercise the authority and responsibilities of the Mayor, as Chief Administrative Officer of the City, and of the City Council, as the governing body of the City, concerning the adoption, amendment and enforcement of ordinances or resolutions affecting the financial condition of the City as provided in the Home Rule City Act, Act 279, Public Acts of Michigan, 1909, as amended ("Act 279"); and

WHEREAS, pursuant to Act 72 and the Contract, the EFM, as the Chief Administrative Officer of the City, is authorized to, among other things, make, approve, or disapprove any appropriation, contract, expenditure, or loan for the City as she may deem necessary within her sole discretion to accomplish the purposes of Act 72; and

WHEREAS, the EFM solicited bids for services related to, among other things to perform cold patching and hot patching services within the City of Ecorse.

WHEREAS, ABC Paving Company, a Michigan corporation, duly qualified to provide cold and hot patching services in the State of Michigan, submitted the winning bid for cold & hot patching services within the City; and

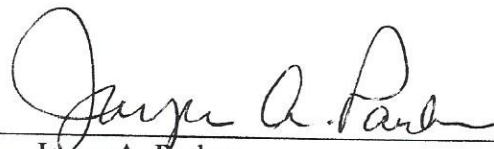
WHEREAS, the EFM has determined it is the best financial interest of the City to contract with ABC Paving Company to provide cold & hot patching services.

WHEREAS, pursuant to Act 72, the EFM desires to authorize the officers, agents and employees of the City, including legal counsel to the City to negotiate the terms of the contract with ABC Paving Company but subject to the parameters set forth in the Order, and upon finalization of the contract to authorize the EFM to execute and deliver the contract on behalf of the City.

NOW THEREFORE, BE IT ORDERED BY THE EMERGENCY FINANCIAL MANAGER OF THE CITY OF ECORSE, PURSUANT TO ACT 72 AND THE CONTRACT, THAT:

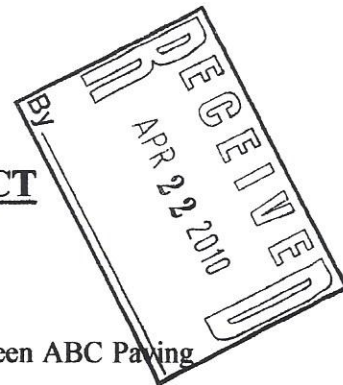
1. Negotiations of Contract Terms and Preparation of Contract. Pursuant to Act 72, the officers, agents and employees of the City are each hereby authorized and directed to negotiate the terms of a Cold and Hot Patching Contract with ABC Paving Company to provide cold & hot patching services within the City, in accordance with the bid submitted by ABC Paving Company and to cause said contract to be prepared with such modifications that shall be acceptable to the EFM, and approved by legal counsel to the City, subject to the following parameters:
 - (a) The contract shall commence on April 30, 2010
 - (b) The cost to the City for the cold and hot patching services pursuant to the contract shall be as provided in the proposal submitted by ABC Paving Company.
2. Approval, Execution and Deliver of Contract. The EFM is hereby authorized and directed to execute and deliver the final Cold Patching and Hot Patching Contract on behalf of the City, and upon execution, the contract shall become a valid and binding contract of the City, in accordance with its terms.
3. Authorization of Other Necessary Action. The Mayor, The Finance Director, the Treasurer and the City Clerk are hereby authorized and directed on behalf of the City to take any and all other actions, perform any and all acts and execute any and all documents as directed by the EFM as shall be necessary or desirable to implement this Order.
4. Repeal. All orders of the EFM, resolutions of the City Council of the City, and parts of resolutions or orders in conflict with this Order are hereby repealed to the extent of such conflict.

SO ORDERED this 27th day of April 2010.



Joyce A. Parker
Emergency Financial Manager
City of Ecorse

COLD PATCHING AND HOT PATCHING CONTRACT



THIS AGREEMENT made and entered into this ____ day of April 2010, by and between ABC Paving Company, 2650 Van Horn Road, Trenton, Michigan 48183, hereinafter called the "Contractor", and the CITY OF ECORSE located at 3869 West Jefferson Avenue, Ecorse, Michigan 48229, hereinafter called the "CITY".

WITNESSETH:

WHEREAS, the parties hereto are desirous of entering into a Contract for cold patching and hot patching services,

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

1. That the Contractor shall be available to perform cold patching and hot patching services pursuant to the provisions of the CITY OF ECORSE BID SPECIFICATIONS FOR COLD PATCHING AND HOT PATCHING which is attached hereto and incorporated herein as EXHIBIT "A",
2. That the Contractor shall fill potholes on CITY streets and parking lots with cold patch and/or hot patch material as directed by the Director of Public Works.
3. That the rates for cold patching and hot patching are governed pursuant to the provisions of City of Ecorse Emergency Financial Manager Directive No. xx-xx-xxx and attached hereto and incorporated herein as EXHIBITS "B", All invoices shall be directed to the attention of the Director of Public Works or his/ her designee at the address designated for the City. The City shall provide payment for Services in a given month by no later than sixty (60) days after the invoice date.
4. That the Contractor shall provide cold patching and hot patching services to the City pursuant to the terms and conditions of the CITY OF ECORSE BID SPECIFICATIONS FOR COLD PATCHING AND HOT PATCHING and ABC Paving Company Cost Per Ton Bid response which are attached hereto and incorporated herein as EXHIBITS "A" and "C", respectively.
5. Contractor and its Subcontractors shall comply with the requirements of the Michigan Workers' Compensation law and shall maintain such insurance as will protect Contractor/Subcontractor and the City from claims under that law and from any other claims for personal injury, including death which may arise from acts or omissions under this Agreement, and shall give proof of such insurance and renewals thereof, to the Director of Public Works promptly upon execution of the Agreement and upon insurance renewals,

respectively. Notice to the City is required thirty (30) days prior to any change or cancellation of the policy. Contractor shall carry Comprehensive General Liability Insurance and Comprehensive Automobile liability insurance of not less than the minimum amounts stated in EXHIBIT "A" to cover their operations under this contract as well as other types of insurance required by Federal, State and local laws for the term of this agreement. The City shall be named as an additional named insured on Contractor's policy.

6. Contractor and its Subcontractors shall abide by all Federal, State, County and City laws and regulations and to pay any and all taxes, whether employment taxes, or otherwise, to any taxing authority.
7. The Contractor shall furnish and be solely responsible for all equipment required to perform the cold patching and hot patching services requested by the City.
8. The Contractor shall commence and complete the requested cold patching and hot patching services pursuant to the time requirements as may be directed by the Director of Public Works.
9. During the term of this Agreement, Contractor and its designated Subcontractors shall perform its duties and cause all work designated to be completed in a workmanlike manner.
10. Contractor and its Subcontractors shall hold harmless and defend the City, its employees and agents, from and against any loss, claims or damages, injuries, costs or attorney fees arising out of Contractor's/Subcontractor's operations under this Agreement and which are the result of the negligent act, error or omissions, or intentional misconduct of Contractor/Subcontractor; provided, however, Contractor/Subcontractor shall not be responsible for any loss, claims, damages, injuries, costs or attorneys fees resulting, to the extent that such losses which arise or result from the sole negligence of the City or any of its agents, representatives, employees or contractors. Nothing contained herein shall be construed so as to create any benefits and/or rights in any third parties hereto.
11. If Contractor shall fail, neglect or refuse to perform any of its duties of this Agreement, provided that demand to perform any services was first made upon Contractor by the City and after the continuance of any such failure to perform for a period of two (2) business days after written notice thereof is given by the City to Contractor. The City may, but shall not be required to, perform such duties or have such duties performed by another party and charge Contractor all reasonable costs incurred and may deduct such costs from any moneys due, or to become due to Contractor. The City may, but shall not be required to, perform such duties or have such duties performed by another party on an emergency basis.

12. All actions arising under this Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.
13. This agreement may be terminated by either party hereto upon thirty (30) days written notice to the other party.
14. The services provided under this Agreement shall commence on the date of execution of this Agreement and shall terminate December 31, 2011.
15. Any such change, addition, deletion or modification, including any increase or decrease in the Contractor's compensation or the term of the Contract which are mutually agreed upon shall be incorporated in amendments to this Agreement. No amendment shall be effective and binding upon either the City or Contractor unless it is signed and acknowledged by a duly authorized representative of both parties and is approved in accordance with the then applicable laws of the City of Ecorse.
16. Contractor shall not assign this Agreement or any of its duties or obligations herein to a non-affiliated corporate entity, unless agreed to in advance by the City in writing.
17. This Agreement including any Exhibits attached hereto, which are made a part of this Agreement, contains the entire Agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals to this Agreement on the day and year first above written.

IN THE PRESENCE OF:

CONTRACTOR

BY: _____

ABC PAVING COMPANY

CITY OF ECORSE

BY: _____

JOYCE A. PARKER,

EMERGENCY FINANCIAL MANAGER

AGREEMENT
City of Ecorse
Bid Specifications
For
Cold Patching and Hot Patching

A. General Terms and Conditions

Sealed bids marked "Cold Patching and Hot Patching" received in the City Clerk's Office until 4:00 p.m. local time shall be filled out in its entirety; no partial bids.

It is the intent of this contract to provide for the maintenance of City roads free of potholes throughout the pothole season by installing Cold Patch and/or Hot Patch material as directed by the DPW Director.

This work shall include but is not limited to installing material on all City roads as required to fill potholes in quantity and material as directed by the Department of Public Works to assure safe vehicular traffic on City streets. The City is responsible to maintain the City roads free of potholes as often as required by the DPW Director.

The City of Ecorse reserves the right to reject any and all bids, waive irregularities in any bid and to make an award in any manner deemed to be in the best interest of the City of Ecorse.

B. Bidder Qualifications

Bidders shall be known to be skilled and regularly engaged in work of similar nature. They shall have experience in commercial road maintenance.

Bidders shall furnish recent client and/or reference lists complete with contact name, address and telephone numbers of clients similar to the City of Ecorse. Additionally, bidders shall be required to submit a certification statement setting forth such information as the City may require concerning prior experience and performance record, other work now under contract, financial condition, personnel and other information as the City deem necessary in order to determine the bidder qualifications, responsibility and ability to perform and complete the work in accordance with these contract requirements. The contractor shall fulfill these requirements during the life of the contract at intervals as required by the City.

Bidders shall also demonstrate their possession of the necessary equipment to perform according to contract requirements through written proof of ownership, lease or under conditional purchase order or lease. Conditional purchase order or leasing agreement must have a promise delivery date or effective date, which is prior to the contract starting date.

C. Responsibility of Bidder

The bidder is responsible for examining the sites and conditions of work. No claims for additional payment or pleas regarding the inability to perform shall be entertained, if based on alleged ignorance of existing or reasonable expected conditions.

D. Requirements of the Contractor

The contractor shall furnish all labor and machinery necessary to accomplish the work required under this contract. A minimum of one (1) five-yard truck or equivalent and a crew complement of two or more using required safety personal protective gear and equipment at all times while performing under this agreement shall be guaranteed by the contractor. The contractor shall repair or replace any signs, sidewalks, buildings, poles or any other property damaged or destroyed by careless accidental use of contractor's equipment or machinery in the performance of the contract. The contractor shall provide all supporting documents required by the DPW Director to document the work performed under this agreement.

E. Equipment

The contractor shall accompany the bid with written evidence of ownership, lease or bonafide purchase agreement per specifications under bidder's qualifications. All machinery and equipment shall be in good working condition and shall be maintained that way for the life of the contract. Equipment shall meet the requirements of the State and City laws and regulations. The City reserves the right to inspect and approve any and all equipment that the contractor intends to use in the performance of the contract. Inspections can be performed anytime during the life of the contract.

F. Supervision and Reporting

The Contractor must identify a person who will be available at all times to direct operations. This person shall report to the DPW Director or his/her designee any problems, which occur and shall submit progress reports of areas completed. The same person shall have full authority to act for the Contractor or any sub-contractor.

G. Termination of the Contract

Either party upon thirty (30) days written notice to the other party may terminate the contract.

H. Work Schedule

Roadway maintenance may start at 7:00 a.m. and may not continue past 7:00 p.m., Monday through Friday. Saturday work may be performed with the permission from the DPW Director or his/her designee.

I. Subcontractors

The DPW Director must review the written scope of work of each proposed subcontractor. Written approval must be received from the DPW Director prior to the subcontractor starting work.

J. Contractor Authority To Start Work

The contractor shall begin work after receiving a "Notice to Proceed" by the DPW Director. The contractor must start work within one week upon receipt of the "Notice to Proceed".

K. Insurance

The successful bidder (Contractor) shall carry public liability and accident insurance to cover their operations under this contract as well as other types of insurance required by Federal, State and local laws for the term of this agreement. The Contractor shall provide the City with a copy of the insurance coverage indicated each contract year. The Contractor agrees to secure and keep in force during the entire term of this Agreement a policy of insurance(s), providing for commercial general liability and automobile liability claims.

As a minimum, the insurances shall be in the following amounts:

1. Employee Liability	\$ 100,000
2. Comprehensive Liability Bodily Injury including death	\$ 500,000 per occurrence
3. Property Damage	\$ 100,000 per occurrence
4. Aggregate Comprehensive Motor Vehicle	\$ 200,000
5. Vehicle Liability	\$ 250,000 each person
6. Bodily Injury including death	\$ 100,000 each occurrence

The City shall be named as an additional insured on the Contractor's policy and be held harmless. The City shall have the right to change, amend, increase, decrease, modify, add or delete any requirements at its sole discretion during the life of the agreement.

L. Indemnification

To the fullest extent permitted by law, the Contractor expressly agrees to indemnify and hold the City of Ecorse harmless against all losses and liabilities, including reasonable costs and expenses of defense, such as attorney fees, arising out of bodily injury and property damages, based upon any act or omission, negligent or otherwise, of the Contractor or anyone acting on the Contractor's behalf, in connection with or incident to this Agreement.

M. Award of Contract

Awards shall be made based on qualified low bid and the capacity of the successful bidder to perform as stated in these specifications and determined by the DPW Director and the Emergency Financial Manager.

N. Payment

The contractor shall make monthly billings for work performed under this agreement. All supporting documentation required by the DPW Director shall accompany each monthly invoice. The Contractor shall be responsible to pay all payroll taxes and other taxes levied against payroll by Municipal, State and Federal agencies.

O. Completion of Work

All work performed by the Contractor under this agreement shall be completed consistent with industry standards in a timely manner and satisfactorily to the DPW Director or his/her designee.

P. Fair Employment Practice

The Contractor in accordance with the state and federal constitutions and state and federal legislation and regulations governing fair employment practices and equal employment opportunity agrees it will not discriminate against any person, employee, or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment because of his/her religion, race, color, national origin, age, sex, height, weight, marital status, or handicap that is unrelated to the individual's ability to perform the duties of a particular job or position.

EXHIBIT
"B"

EFM DIRECTIVE

City of Ecorse

Bid Specifications For

Cold Patching And Hot Patching

Price Per Ton

March 15, 2010

EXHIBIT
"C"

Cold Patch

1. The Contractor shall supply all labor, equipment, materials (including but not limited to asphalt) (and be additionally insured) to perform the work. The Contractor shall submit a list of subcontractors with their bid submittal. Either party may terminate the contract by written notice to the other party.
2. Work will normally be performed during dry conditions. The Contractor shall be prepared to respond to less than ideal conditions by applying the appropriate base to permit adherence of the cold patch.
3. The Contractor shall utilize the appropriate equipment and labor to apply cold patch asphalt (supplied by a reputable supplier acceptable to the City of Ecorse) and protect the material prior to installation into the potholes and cracks in the road surfaces.
4. Cold patch asphalt material shall be installed on all city roads to fill potholes and cracks in the roadways as directed by the Department of Public Works Director or his/her designee. Exceptions: County Roads.
5. All loose material, dirt and debris shall be removed from the area to be filled prior to applying the cold patch asphalt material.
6. The cold patch asphalt material shall be placed in the hole in the proper manner level with the existing road surface and in sufficient quantity that when compacted to permit safe unobstructed vehicular traffic.

Hot Patch

1. Same as number 1 above.
2. Work will be performed during dry conditions.
3. The Contractor shall utilize the appropriate equipment and labor to apply hot patch asphalt (supplied by a reputable supplier acceptable to the City of Ecorse) and protect the material prior to installation into the potholes and cracks in the road surfaces.
4. Hot patch asphalt material shall be installed on all city roads to fill potholes and cracks in the roadways as directed by the Department of Public Works Director or his/her designee. Exceptions: County Roads.
5. All loose material, dirt and debris shall be removed from the area to be filled prior to applying the hot patch asphalt material.
6. A base coat of approved asphalt adhesive material acceptable to the city of Ecorse shall be applied to the area to be filled prior to applying the hot patch asphalt material.
7. The Contractor shall compact the material sufficiently to create a solid level surface once the hot asphalt material is placed in the pothole or road surface crack.

8. The hot patch asphalt material shall be placed in the hole in the proper manner level with the existing road surface and in sufficient quantity that when compacted to permit safe unobstructed vehicular traffic
- Hot patch work shall take place when the air temperature is 45°F and rising. Hot patch material shall be applied in maximum 4" lifts and compacted using mechanical compaction equipment. The surface is to be compacted with a roller. Bituminous bonding coat shall be approved prior to application. Hot patch shall consist of 36A or 13A material.

2010 Cost per Ton to install Cold Patch Material \$ 223⁸⁰

2011 Cost per Ton to install Cold Patch Material \$ 223⁸⁰

2010 Cost per Ton to install Hot Patch Material \$ 147¹²

2011 Cost per Ton to install Hot Patch Material \$ 147¹²

Bid submitted by:

Company Name: ABC PAVING COMPANY

Address: 2650 Van Horn Road

Trenton, MI 48183

Telephone: 734.676.2020

Name (Print): Brian G. Morrison 4/12/10

Authorized Signature:  Date 4-8-10

Its (Title): Estimator